IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)

Description of the case

Writ Petition No. 433 of 2002 (S/B)

Date of decision: 27th of September, 2004.

For the Approval of:

Hon'ble Chief Justice V.S.Sirpurkar

Hon'ble Mr. Justice Irshad Hussain

-Whether the order/judgment should be sent to the reporters for reporting? (Yes)

-Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 433 (S/B) of 2002

Satish Chandra Verma	……..	Petitioner
	Versus	
State of U.P. and others	……..	Respondents
	……..	

Mr. Manoj Tiwari, learned counsel for the petitioner
Mrs. Bina Pande, learned Standing Counsel for the State of U.P.
Mr. J.P. Joshi, learned counsel for the State of Uttaranchal

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Irshad Hussain, J.

Dated: September 27, 2004

[Per Hon'ble the Chief Justice]

1. Heard learned counsel for the parties finally.

2. This is a petition by an unfortunate person, who retired on 30.06.1999 as Principle from Government Intermediate College, Kishanpur, District Dehradun.

3. The petitioner in this petition has clamoured for his pension, balance amount of gratuity and other retiral dues. Since the petitioner was erstwhile employee of the State of Uttar Pradesh and since the petitioner is governed by the U.P. Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 1995, the petitioner had joined the State of U.P. as a party alongwith the Director of Education Uttaranchal, Dehradun. It is pointed out by him that he was entitled to the grant of pension under the said rules and though his pension was sanctioned, nothing has been paid to him so far by way of pension.

4. The petitioner pointed out that only provisional pension was sanctioned and paid to the petitioner @ Rs. 6310/- per month. However, that also came to an end in December 2001 and thereafter petitioner was left high and dry. The petitioner also pointed out that some amount of gratuity i.e. Rs. 2,73,061/- were paid to him in the month of May 2000 by way of provisional gratuity. The remaining gratuity has not been paid to him. The

petitioner then pointed out that petitioner was facing great financial crises on account of this inaction on the part of the State Governments.

5. A counter affidavit has been filed by the State of Uttar Pradesh, wherein they pointed out that ‘no objection certificate’ for final pension alongwith commutation and gratuity was sanctioned by the Finance Controller Siksha Nideshalaya, U.P. Allahabad. They have filed these documents as Annexure 1 and 2 to the counter affidavit. It is further pointed out that vide order dated 09.10.2002, medical leave was sanctioned by the concerned authorities and that the petitioner would be entitled to that amount also. In paragraph 9 of the counter affidavit, it has been mentioned that the leave encashment was also sanctioned to the petitioner by the Government by order dated 09.10.2002 and that the U.P. Government has released all the no objection document without any delay. They have also filed a document that even traveling allowance to which the petitioner was entitled was sanctioned by the U.P. Government.

6. Unfortunately for the petitioner, the amount of pension and other retiral dues have not been paid to him till today except the provisional pension for some time, to which we have already made reference.

7. In fact this Court by is earlier orders dated 01.11.2002 and 15.11.2002 had granted some relief to the petitioner inasmuch as by the order dated 01.11.2002 the amount of gratuity was directed to be paid by the Senior Treasury Officer, Dehradun, while by the order dated 15.11.2002, the release of pensionary benefits admissible to the petitioner were also ordered to be released within two weeks and the Senior Treasury Officer, Dehradun was also directed to remain present in the Court. It seems that those directions have not been complied with, nor has Senior Treasury Officer, Dehradun bothered to attend the Court. There does not seem to be any endorsement in the order-sheets regarding his having attended the Court as per directions.

8. There can be no dispute that the petitioner had earned his pension and other retiral benefits. There can also be no dispute that the U.P. Government

has passed necessary orders sanctioning the payment of retiral benefits. There can be further no dispute that this Court had also directed the payment of pension as well as other retiral benefits to the petitioner. It is really a matter of great concern that the Uttaranchal Government should have taken the matter so casually that even upto September, 2004, the benefits should not have been given to the petitioner at all. Very unfortunately, there is no counter filed for the Uttaranchal Government till today. Mr. J. P. Joshi, learned counsel appearing on behalf of the Uttaranchal Government seeks two weeks time for finding out as to what has happened in the matter. Unfortunately, we are not in a position to grant time in view of the criminal waste of time by the Uttaranchal Government. An employee after he retires honourably from service, is entitled to his retiral benefits, which are the result of his honest service to the Government and in this case, we find that there was no impedement against the payment of pension and other retiral dues to the petitioner. There appears to be virtually no justification as to why the payments have not been granted to the petitioner alongwith pension. It is a matter of great concern that a Government employee, whose provisional pension was also stopped in December, 2001, remained without a farthing on account of delay in payment of his retiral dues for long period of two years and nine months.

9. We, therefore, allow the petition and direct the Uttaranchal Government to settle the pension of the petitioner within fifteen days from today. In addition to this, the Uttaranchal Government shall pay interest @ 9% per annum on the unpaid pension so far. It shall also pay 9% interest from the date of retirement of the petitioner till the gratuity was paid to him firstly upto May, 2000 and thereafter on the remaining payment of gratuity till 06.01.2003, when it was actually paid.

10. We also allow this petition with exemplary cost of Rs. 10,000/- (Rupees Ten thousand only) against the Government of Uttaranchal.

11. State of Uttaranchal is also directed to find out as to who was the person responsible for this delay of payment of pension and institute departmental enquiry against such person.

12. Petition is disposed of accordingly.

(Irshad Hussain, J.) **(V.S. Sirpurkar, C.J.)**
27.09.2004 27.09.2004

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